

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,
Plaintiff

vs.

OMAYRA SIXTOS
Defendant

CIVIL ACTION NO.
17-05427

PLAINTIFF'S RESPONSE TO ORDER TO SHOW CAUSE

I. PRELIMINARY STATEMENT

The United States of America on behalf of its agency, United States Department of Education, hereinafter "Plaintiff," submits this Response to this Court's Order to Show Cause dated April 5, 2018.

II. PROCEDURAL HISTORY AND STATEMENT OF FACTS

Plaintiff commenced this mortgage foreclosure action by Complaint on December 5, 2017. On April 5, 2018, this Court entered an Order to Show Cause as to why this action should not be dismissed for lack of prosecution.

Service was made on Defendant on January 15, 2018 by personal service at 3538 Damon Drive, Grand Prairie, TX 75052. In mid-February 2018, Plaintiff's counsel was advised that the underlying loan was under review for a possible short sale offer, which is still ongoing. Due to the ongoing loss mitigation review, Plaintiff is waiting to determine whether or not the short sale will be successful. If the short sale is successful, Plaintiff will voluntarily dismiss the instant action. Otherwise, Plaintiff will proceed with filing its Motion for Default Judgment.

IV. ISSUES

Should this case not be dismissed for want of prosecution?

V. ARGUMENT

Policies surrounding foreclosure collection efforts favor allowing loss mitigation review to proceed and conclude prior to moving for judgment. For example, under RESPA, 12 CFR 1024.41(g), “[i]f a borrower submits a complete loss mitigation application after a servicer has made the first notice or filing required by applicable law for any judicial or non-judicial foreclosure process but more than 37 days before a foreclosure sale, a servicer shall not move for foreclosure judgment or order of sale, or conduct a foreclosure sale” until the application is denied or ineligible for loss mitigation, loss mitigation is rejected by the borrower, or the borrower fails to perform under a loss mitigation option.

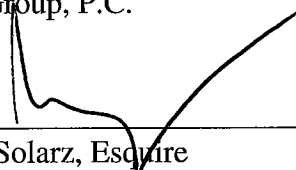
Plaintiff now requests that this court not dismiss this action as a loss mitigation option is currently being reviewed. If this action is dismissed and the short sale ultimately does not occur, Plaintiff will be required to re-file its action, which is against the interests of judicial economy and will create more costs for both Plaintiff and the court system. Further, Plaintiff will be unduly prejudiced if required to eventually re-start this action. Therefore, Plaintiff requests that this action not be dismissed so that the short sale review can conclude. If the short sale is ultimately successful, Plaintiff will then voluntarily discontinue this action. Otherwise, Plaintiff will move for judgment upon conclusion of the review.

VI. CONCLUSION

Plaintiff respectfully requests that this Court allow Plaintiff additional time to allow for the short sale review to conclude so that Plaintiff can either move for judgment or voluntarily dismiss the case.

Respectfully submitted,

KML Law Group, P.C.

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Date: 4/18/2018

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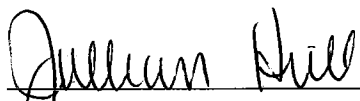
CERTIFICATE OF SERVICE

This is to certify that, in this case, completed copies of all papers contained in the attached Response to Rule to Show Cause was served upon Defendant by placing copies in a postpaid envelope addressed to the persons hereinafter named, at the places and addresses stated below, which is the last known addresses, and by depositing envelopes and contents in the United States Mail on April 18, 2018 upon:

OMAYRA SIXTOS
3538 Damon Drive
Grand Prairie, TX 75052

Respectfully submitted,

KML Law Group, P.C.

By: 
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